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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,339	08/08/2000	Evan John Kaye	03092/100G844-US1	4215
7590		10/18/2006	EXAMINER	
Darby & Darby PC		NGUYEN, MAIKHANH		
805 Third Avenue				
New York, NY 10022		ART UNIT		
		PAPER NUMBER		
		2176		

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/634,339

Applicant(s)

KAYE, EVAN JOHN

Examiner

Maikhanh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-14 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-6, 8-14, and 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to communications: RCE filed August 10, 2006.

Claims 1-3, 5-6, 8-14, and 16-24 are presented in this application. Claims 1, 5-6, 12, 16, and 21 have been amended. Claims 4, 7, 15 have been amended. Claims 1, 6, 12, and 21 are independent claims.

Please note that examiner formerly in charge of examining this application, Quoc Tran, is no longer employed at the USPTO. Now Maikhanh Nguyen is in charge of examining this application. Please update future correspondence accordingly.

Request Continuation for Examination

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 10, 2006 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-6, 8-14, and 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Solboe** (U.S. 6,349,942 – filed 8/2000).

As to claim 6:

Solboe teaches a method implemented on a network for fostering a Web site, the network including a client machine and a server associated with the Web site (*e.g., guessing the song titles and artists...plays the songs on a music source...The music source may be replaced with...a computer...internet access*) [see the Abstract and the discussion beginning at col.1, line 34], comprising the steps of:

- downloading a voice clip created by a voice-clip author to a user at the client machine from the Web site; playing the voice clip at the client machine through speakers attached thereto (*e.g., plays the songs on a music source...The music source may be replaced with...a computer... internet access*) [col.1, line 51-col.2, line 64; and col.3, line 66-col.4, line 3];

- selectively providing a response from the client machine to the Web site the response including a song name or artist's name (*e.g., when the title and artist of the song are correctly guessed/the participant guesses the song title and/or artist of as many songs as they can...over the internet*) [see the Abstract; col.1, lines 52-65; and col.3, line 66-col.4, line 22]; and
- awarding a benefit to the user for the response provided that plural responses from other users concerning the same voice clip match within prescribed parameters (*e.g., One point is preferably given for guessing the correct artist of a song and one point is preferably given for guessing the correct title of a song/awards points for correct answers*) [see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29].

Solboe does not specifically teach the notifying step as claimed. However, Solboe discloses determining the winner as the participant that earns the most points [see col.4, lines 8-17; and col.5, lines 14-29].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied Solboe's teachings to implement the claimed notifying step because it would have provided the capability for automatically identifying the visior/participant who correctly guessed the title and the artist of the displayed song.

As to claim 8:

Solboe teaches plural voice clips are downloaded to the user, the plural voice clips comprising a playlist (*e.g., provides a board game for guessing information about a topic area which utilizes unique play categories, scoring system, and allows the players to use information of their own choice ... will play the songs on a music source ... The music source may be replaced with a radio, computer, television, or internet access*) [see the discussion beginning at col.1, line 29].

As to claim 9:

Solboe teaches distribution-to plural users (*e.g., players/participants* [see col.1, line 29-39 and col.2, lines 54-58].

As to claim 10:

Solboe teaches deleting one or more voice clips from the database in response to at least one predetermined criterion (*e.g., provides a board game for guessing information about a topic area which utilizes unique play categories, scoring system, and allows the players to use information of their own choice*) [see the discussion beginning at col.1, line 29].

As to claim 11:

Solboe teaches the user has voice clips downloaded to the client machine which have not been previously downloaded to that user (*e.g., an interactive internet web page ...*

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announces the category and participant...keep track of each participant's score) [see the discussion beginning at col.4, line 1].

As to claim 20:

Solboe teaches playing a first voice clip among the plural voice clips while a next voice clip among the plural voice clip is loaded into a buffer of the client machine (*e.g., provides a board game for guessing information about a topic area which utilizes unique play categories, scoring system, and allows the players to use information of their own choice...will play the songs on a music source... The music source may be replaced with a radio, computer, television, or internet access) [see the discussion beginning at col.1, line 29].*

As to claim 21:

Solboe teaches a method implemented on a network for fostering a community of users at a Web site, the network including plural client machines and a server associated with the Web site (*e.g., guessing the song titles and artists...plays the songs on a music source... The music source may be replaced with...a computer...internet access)[see the Abstract and the discussion beginning at col.1, line 34], comprising the steps of:*

- receiving at the server associated with the Web site a voice clip of a portion of a song from a first human user among the community of users (*e.g., participants*), the first human user being connected to the server at a first client machine (*e.g., plays the songs on a music source...The music source may be replaced with...a*

computer... internet access/the third music alternative is On-Air Live Style...an interactive internet web page) [col.1, line 51-col.2, line 64; and col.3, line 66-col.4, line 3];

- presenting for download and playback at client machines used by additional human users among the community of users the voice clip received from the first user (*e.g., provides a board game for guessing information about a topic area which utilizes unique play categories, scoring system, and allows the players to use information of their own choice. There are many different informational topics which may be used as material for playing the board game. A preferred way of playing the board game is the identification of recorded music... use a board game for guessing the song titles and artists to illustrate the functionality of the board for guessing information about a particular topic area...plays the songs on a music source...The music source may be replaced with...a computer...internet access) [see col.1, line 29-col.2, line 64; and col.3, line 66-col.4, line 3];*
- permitting multiple ones of the additional human users to post a name of the song to the server from respective additional client machines (*e.g., all participants are allowed to guess the artist and/or song title) [see col.4, line 8-45];*
- testing the posted song names for a match among a predetermined plurality of the names posted by the visitors (*e.g., One point is preferably given for guessing the correct artist of a song and one point is preferably given for guessing the correct title of a song/awards points for correct answers) [see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29].*

Solboe does not specifically teach the providing a notification step as claimed. However, Solboe discloses determining the winner as the participant that earns the most points [*see col.4, lines 8-17; and col.5, lines 14-29*].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied Solboe's teachings to implement the notifying step because it would have provided the capability for automatically identifying the visior/participant who correctly guessed the title and the artist of the displayed song.

As to claim 22:

Solboe teaches awarding a benefit to the additional human users that have posted the name of the song to the server provided that at least one predetermined criterion is satisfied (*e.g., One point is preferably given for guessing the correct artist of a song and one point is preferably given for guessing the correct title of a song/The winner may be determined as the participant that earns the most points*) [*see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29*].

As to claim 23:

Solboe teaches a test of the name of the song posted by one of the additional human users for matching data provided by another of the additional human users (*e.g., One point is preferably given for guessing the correct artist of a song and one point is preferably*

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given for guessing the correct title of a song/awards points for correct answers) [see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29].

As to claim 24:

Solboe teaches the additional step of issuing a benefit to those additional human users who submitted responses that had matching data (*e.g., the winner may be determined as the participant that earns the most points*) [see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29].

As to claims 1 and 12:

The rejection of claim 21 above is incorporated herein in full. Additionally, Solboe teaches making the voice clip and any further information available to a human visitor to the server (*e.g., provides a board game for guessing information about a topic area which utilizes unique play categories, scoring system, and allows the players to use information of their own choice...will play the songs on a music source... The music source may be replaced with a radio, computer, television, or internet access*) [see the discussion beginning at col.1, line 29] and the identification of the song comprising at least one of the name of the song and an artist name (*e.g., all participants are allowed to guess the artist and/or song title*) [see col.4, line 8-45].

As to claims 2 and 13:

Solboe teaches a hypertext link to a predetermined page constructable by the server (*e.g., an interactive internet web page...over the internet*) [see col.4, line 1-22].

As to claims 3 and 14:

Solboe teaches at least, among other things, the artist (*e.g., One point is preferably given for guessing the correct artist*) [see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29].

As to claims 5 and 16:

Solboe teaches the additional step of issuing a benefit to those additional human users who submitted responses that had matching data (*e.g., the winner may be determined as the participant that earns the most points*) [see col.3, lines 5-17; col.4, lines 8-17; and col.5, lines 14-29].

As to claim 17:

Solboe teaches the first user identification information is received automatically from the client machine upon accessing the server [see col.4, lines 1-22 and col.5, lines 6-29].

As to claim 18:

Solboe teaches the first user identification information is received automatically from a cookie stored on the client machine *[see col.4, lines 1-22 and col.5, lines 6-29]*.

As to claim 19:

Solboe teaches the first user identification information is received from the client machine in response to manual input by the first user *[see col.3, lines 55-65]*.

Response to Arguments

4. Applicants' arguments filed August 10, 2006 have been fully considered but are moot in view of the new ground(s) rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- | | | | |
|---|-------------------|-------------------------------|--------------------------|
| - | Woo | U.S. Pat. No. 6,678,680 | Issued: Jan. 13, 2004 |
| - | Gjerdingen et al. | U.S. Pat. No. 6,539,395 | Issued: Mar. 25, 2003 |
| - | Gang et al. | U.S. Pat. No. 7,075,000 | Issued: Jul. 11, 2006 |
| - | Rouchon | U.S. Pub. No. 2001/0025259 A1 | Pub. Date: Sep. 27, 2001 |

- Chacker U.S. Pub. No. 2004/0093249 A1 Pub. Date: May 13, 2004
- D. Gibson: "Name That Clip, Music retrieval using audio clips," Disclosed at public conference in Berkeley, California, August 1999, pp. 1-10.
- N. Kosugi et al., "A Practical Query-By-Humming System for a Large Music Database," Proceedings of the eighth ACM International conference on Multimedia, 2000, pp. 333-342.
- R. McNab et al., "The New Zealand Digital Library MELody inDEX," D-Lib Magazine, May 1997, pp. 1-10.
- Web pages from gracenote website (www.gracenote.com), pp. 1-19.

Contact information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached at (571) 272-4136.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
Commissioner for patents
P O Box 1450
Alexandria, VA 22313-1450

MN


Heather R. Herndon
Supervisory Patent Examiner
Technology Center 2100